

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re Flint Water Cases.

Judith E. Levy
United States District Judge

This Order Relates To:

ALL CASES

**ORDER GRANTING IN PART AND DENYING IN PART STATE
DEFENDANTS' MOTION FOR A PROTECTIVE ORDER [1047]**

On January 23, 2020, State of Michigan Defendants former Governor Snyder, Nick Lyon, Eden Wells, and Andy Dillon (“State Defendants”) filed a motion for a protective order. (ECF No. 1047.) They ask that their depositions in this litigation be postponed until the question of whether they are immune from suit based upon qualified immunity is fully resolved. At present, that issue is pending on appeal before the Sixth Circuit Court of Appeals. On February 3, 2020, Defendants Veolia North America and McLaren Regional Medical Center filed their opposition to this motion. (ECF Nos. 1051, 1052.)

The Court has previously ruled on the issue of staying discovery of the State Defendants in an earlier order. (ECF No. 861.) There the Court said that these same State Defendants are “entitled to a stay of discovery on claims for which they continue to litigate the issue of immunity.” (ECF No. 861, PageID.23408.) However, “[i]n all other respects, discovery will continue.” (*Id.*) Indeed, the State Defendants have been appearing at depositions in this litigation as non-parties in the federal cases and as a party in the state-court litigation.

Depositions of the State Defendants will proceed subject to the limitations imposed by this Court’s earlier order. (ECF No. 861.) That order makes clear that the State Defendants are to be treated as a “non-parties to discovery.” (*Id.* at PageID.23416.) The parties must therefore follow the procedures for noticing non-party depositions and must also “avoid imposing undue burden or expense” on the State Defendants. Fed. R. Civ. P. 45(d)(1).

IT IS SO ORDERED.

Dated: April 9, 2020
Ann Arbor, Michigan

s/Judith E. Levy
JUDITH E. LEVY
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on April 9, 2020.

s/William Barkholz
WILLIAM BARKHOLZ
Case Manager